

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

MARY BAILEY

CIVIL ACTION

VERSUS

NUMBER 12-96-JJB-SCR

DEPUY ORTHOPAEDICS, INC., ET AL

ORDER TO AMEND COMPLAINT

Plaintiff Mary Bailey filed a Complaint alleging subject matter jurisdiction under 28 U.S.C. § 1332, diversity of citizenship. The Complaint names a defendants DePuy Orthopaedics, Inc., DePuy International Limited, Johnson & Johnson Services, Inc., Johnson & Johnson, and Johnson & Johnson International. Plaintiff alleged that she "resides" in Louisiana. As to defendant Johnson & Johnson International, the plaintiff alleged that it "is a multi-national corporation also based in New Brunswick, New Jersey."¹

When subject matter jurisdiction depends on citizenship, the citizenship of each party must be distinctly and affirmatively alleged in accordance with § 1332(a) and (c).²

Under § 1332(c)(1) a corporation is deemed to be a citizen of every state in which it is incorporated and of the state in which

¹ Record document number 1, ¶ 3.

² *Stafford v. Mobil Oil Corp.*, 945 F.2d 803, 804 (5th Cir. 1991), *citing*, *McGovern v. American Airlines, Inc.*, 511 F.2d 653, 654 (5th Cir. 1975)(quoting 2A Moore's Federal Practice ¶ 8.10, at 1662).

it has its principal place of business.

Plaintiff's allegation that she resides in Louisiana is not equivalent to alleging that she is a citizen of Louisiana. A person may reside in one state, any yet be a citizen of a different state. Although considering the other allegations in her Complaint this is unlikely, the better practice is for the plaintiff to alleged the state of her citizenship - which is the term used in § 1332.

Plaintiff's jurisdictional allegation regarding defendant Johnson & Johnson International is not sufficient for the court to determine whether diversity jurisdiction exists. Plaintiff did not allege the state where defendant Johnson & Johnson International is incorporated nor where it has it's principal place of business. The allegation that Johnson & Johnson International is a subsidiary of Johnson & Johnson, which is a New Jersey corporation with its principal place of business in that state, suggests that Johnson & Johnson International may also be a New Jersey corporation. The allegation that Johnson & Johnson International is "based" in New Jersey, although too vague to satisfy § 1332, does suggest that New Jersey is the state where it has its principal place of business. While it is unlikely that Johnson & Johnson International would be either incorporated or have its principal place of business in Louisiana, the better practice is for the plaintiff to properly allege the state where Johnson & Johnson International is

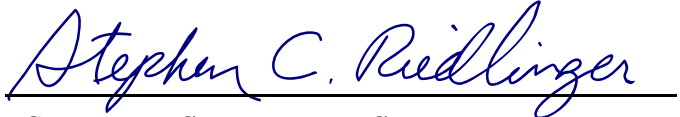
incorporated and has its principal place of business.

Therefore;

IT IS ORDERED that plaintiff Mary Bailey shall have 14 days to file an amended complaint which properly alleges her citizenship and the citizenship of defendant Johnson & Johnson International.

Failure to comply with this order may result in the plaintiff's Complaint being dismissed for lack of subject matter jurisdiction without further notice.

Baton Rouge, Louisiana, February 21, 2012.



STEPHEN C. RIEDLINGER
UNITED STATES MAGISTRATE JUDGE